

JMT BOOK

IN THE COURT OF COMMON PLEAS  
PERRY COUNTY, OHIO

STATE OF OHIO, ex rel.  
Anthony J. Celebrezze,  
Attorney General of Ohio,

Plaintiff

Case No. 20507

vs.

Judge Flautt

CONVEX SYSTEMS, INC.,

Defendant.

RECEIVED  
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CLERK OF COURT

CONSENT ENTRY

It appearing that the parties have reached an agreement in the above-captioned action, now, therefore, without trial of any of the issues, and with the consent of the parties hereto, it is ordered as follows:

1) Plaintiff alleges that the Defendant Convex Systems, Inc. violated Sections 3745-31-02 and Section 3745-35-02 of the Ohio Administrative Code, and Sections 3704.05 of the Ohio Revised Code by operating an ash transfer station, unloading municipal incinerator ash from rail car to truck by backhoe, at a site located on Tile Plant Road, New Lexington, Perry County, Ohio;

2) Defendant Convex Systems, Inc. denies each and every one of these allegations;

3) This Consent Order, and the parties' agreement in this action, are not and shall not be construed as evidence of or any admission of liability by any party hereto or that any claim or fact alleged by any of the parties is true or correct;

4) The Defendant Convex Systems, Inc. shall pay the amount of \$12,000 to the State of Ohio pursuant to Chapter 3704 of the

Ohio Revised Code, with said payment to be made to the Treasurer of the State of Ohio through its attorneys, the Ohio Attorney General's Office, and Defendant Convex Systems, Inc. shall pay the sum of \$1,000 to the plaintiff for its attorneys' fees and administrative costs incurred in pursuing the above-captioned action.

As part of this Consent Order, Defendant, and its officers, employees, and agents shall not install, operate, or utilize an ash transfer station, as described in the Complaint, located at Tile Plant Road in New Lexington, Ohio, without first applying for and obtaining the necessary permits from the Director of the Ohio Environmental Protection Agency.

In any action to enforce the provisions of this consent decree, Defendant may raise at that time the question of whether it was entitled to remove the case to the United States District Court. While Plaintiff does not agree that removal jurisdiction over this matter exists, it is, however, hereby agreed by the parties that it is premature at this time to adjudicate the existence of such jurisdiction and that the appropriate point at which to adjudicate the existence of removal jurisdiction is at the time that an enforcement action, if any, is commenced. Acceptance of this Consent Decree does not constitute waiver by the parties of any rights or defenses they may have under applicable law.

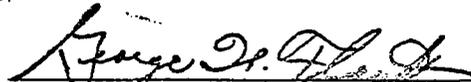
Compliance with the terms of this Consent Entry shall be full satisfaction of Defendant's liability for the claims contained in Plaintiff's Complaint, and for any other criminal or

civil liability or any other action which could have been asserted against Defendant, its officers, directors, agents and employees arising out of the occurrences and matters alleged in Plaintiff's Complaint.

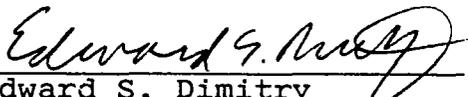
This Consent Entry is being entered in conjunction with and as a part of the Consent Entry entered in the United States District Court, for the Southern District of Ohio, Eastern Division, Case No. C2-88-0606. A copy of that entry is attached hereto and incorporated herein as Exhibit A.

The provisions of this Consent Entry shall apply to and be binding upon the signatories to this Consent Entry, their agents, officers, assigns, and successors in interest.

IT IS SO ORDERED.

  
\_\_\_\_\_  
JUDGE FLAUTT

APPROVED:

  
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Edward S. Dimitry  
Attorney General's Office  
Environmental Section  
30 East Broad Street  
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(614) 466-2766  
Attorney for Plaintiff

  
\_\_\_\_\_  
John P. Gartrand  
ARTER & HADDEN  
One Columbus  
10 West Broad Street  
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(614) 221-3155  
Attorneys for Defendant,  
Convex Systems, Inc.

**FILED**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

OCT 6 1988

KENNETH J. MURPHY, Clerk  
COLUMBUS, OHIO

STATE OF OHIO, ex rel.  
Anthony J. Celebrezze,  
Attorney General of Ohio,

Plaintiff

Case No. C2-88-0606

vs.

Judge Holschuh

CONVEX SYSTEMS, INC.,

Defendant.

JOURNAL ENTRY

It appearing that the parties have reached an agreement in the above-captioned action the Defendant has agreed to withdraw its Amended Petition for Removal filed with this Court on June 24, 1988, without prejudice, and without any hearing on merits of the Amended Petition.

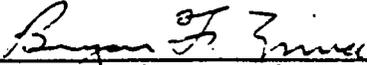
The withdrawal of Defendant's Amended Petition for Removal does not constitute a waiver by either party of any rights or defenses they may have under applicable law.

The Court accepts Defendant Convex Systems Inc.'s withdrawal. The Amended Petition for Removal having been withdrawn voluntarily, the above captioned action is hereby dismissed without prejudice.

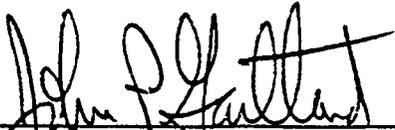
IT IS SO ORDERED.

/s/ JOHN D. HOLSCHUH  
JUDGE HOLSCHUH

APPROVED:



Bryan F. Zima  
Bryan F. Zima, Trial Attorney  
Edward S. Dimitry, Of Counsel  
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